

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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| Notice of Proposed Rulemaking         | ) |                     |
|                                       | ) | CS Docket No. 02-52 |
| Appropriate Regulatory Treatment for  | ) |                     |
| Broadband Access to the Internet Over | ) |                     |
| Cable Facilities                      | ) |                     |
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**REPLY COMMENTS OF THE CITY OF ROCKLAND, MAINE**

These comments are filed by the City of Rockland, Maine in support of the comments filed by the Alliance of Local Organizations Against Preemption (the "Alliance"). Like the Alliance, Rockland believes that (a) local communities should be able to require cable operators to obtain additional authorizations to use and occupy public rights of way to provide cable services, and to enforce existing authorizations that have been granted for the service; (b) should be able to obtain fair and reasonable compensation for use and occupancy of the public rights of way to provide non-cable services; and (c) should be able to regulate cable companies in their provision of non-cable services, as provided under the Cable Act. These comments will also provide information regarding the status of cable modem service in our community.

1. Our community and the status of cable modem service.

Rockland, Maine is a City with a population of approximately 8,000. It is served by Adelphia, which has approximately 10,405 subscribers. The cable system serving our community offers subscribers 110 channels. Cable modem service is offered throughout most of this community.

2. Our franchise and cable modem service.

Our franchise was issued in 1996 and did not directly address cable modem service. However, under our franchise the definition of "Cable System" contemplated cable modem service. Franchise Agreement Section 1.1 g. "'Cable System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment or other communications equipment that is designed to provide Cable Television Services and/or other Telecommunications services to Subscribers." Pursuant to that provision, we were entitled to

receive franchise fees on cable modem service. We received approximately \$3,600 in cable modem franchise fees in 2001. These payments were made in consideration of the grant of the franchise. Our franchise was written to permit the operator to provide both cable services and other services, as long as the operator complied with the franchise terms. We estimate that we will lose in excess of \$ 20,000 over the next five years if we cannot charge a fee on revenues from cable modem service. Neither the franchise requirements nor the fees have prevented or delayed the rollout of cable modem service in our community.

3. How we regulate cable modem service.

We occasionally receive complaints from customers regarding the services provided by cable operators. These include complaints about traditional video programming services and about cable modem services. There are many unique customer service problems associated with cable modem services. In addition, it is often difficult, if not impossible to separate regulation of cable modem service from the regulation of cable service. Customers are advised on their bill by the cable operator that they can call our office with complaints, and as far as we can tell, at no time does the operator advise the customer that protections accorded with respect to cable service do not apply with respect to cable modem service. In our view, there is a substantial and continuing need to protect consumers of cable modem service, in light of the complaints we receive, and because of its close tie to video services.

4. Our community and broadband deployment.

Our community believes it is very important to encourage broadband deployment, and to encourage development of broadband applications. We also believe that in order to achieve the promise of broadband, broadband has to be available to the entire community, as far as possible. We want to avoid knowledge and opportunity gaps created because some parts of the community have access to broadband information, while others do not. The funds that we obtain from cable modem franchise fees can help support these and other activities. If we lose those funds, it will be more difficult to protect consumers, and to promote broadband deployment in this community.

Respectfully submitted,

Dated: July 1, 2002

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